

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

GABRIEL H. T. LAU,

Plaintiff,

vs.

MANDY YIN MAN HO,

Defendant.

CIVIL CASE NO. 19-00123

REPORT AND RECOMMENDATION

Before the court is Plaintiff's July 30, 2019 application to proceed in this action without prepaying fees or costs.

The court has thus reviewed Plaintiff's Initial Complaint, Amendment, and his Application to Proceed without Prepaying Fees and Costs (*In Forma Pauperis*).

In his Application, Plaintiff discloses that he receives \$580 per month from S.S.D.I. and has \$1,000.00 in cash or in his checking and savings account. He also states that he has a Scion XD automobile. In addition, Plaintiff states that he has no housing, transportation, utilities, or loan payments.

Based upon his income and assets, Plaintiff does not appear to qualify as an individual who can proceed herein without paying the filing fee.

However, the court notes that Plaintiff cites no ground to establish federal jurisdiction by this court over his filed civil action. Plaintiff does not state in his Initial Complaint or the Amendment that the complaint before the court involves a federal question at issue or that there is diversity jurisdiction which meets the amount in controversy thresh hold of the statute or the sum of \$75,000.00.

1 In the absence thereof, the court must recommend that Plaintiff's Initial Complaint and
2 Amendment be dismissed subject to Plaintiff's ability to amend the Initial Complaint if he is
3 able to allege a basis for federal jurisdiction.

4 Even though the court finds that Plaintiff does not qualify to file this action in forma
5 pauperis, the court also finds it inequitable to require Plaintiff to pay a filing fee for a complaint
6 which on its face fails to establish federal jurisdiction. If Plaintiff is able to amend his Initial
7 Complaint to allege federal jurisdiction, he should then be required to pay the filing fee and
8 other fees and costs herein.

9 It is so recommended.



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11 /s/ **Joaquin V.E. Manibusan, Jr.**
12 **U.S. Magistrate Judge**
13 **Dated: Aug 05, 2019**

14 **NOTICE**

15 Failure to file written objections to this Report and Recommendation within
16 fourteen (14) days from the date of its service shall bar an aggrieved party from attacking such
17 Report and Recommendation before the assigned United States District Judge. 28 U.S.C. §
18 636(b)(1)(B).
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